



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPRM-DR, FFL

Introduction

This matter proceeded by way of an *ex parte* Direct Request Proceeding, pursuant to section 55(4) of the *Residential Tenancy Act* (the *Act*), and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession based on unpaid rent and a Monetary Order.

The Landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding form which declares that on March 22, 2018, the landlord sent the tenant the Notice of Direct Request Proceeding by registered mail. The landlord provided a copy of the Canada Post Customer Receipt containing the Tracking Number. Based on the written submissions of the landlord, and in accordance with section 89 of the *Act*, I find that the tenant has been duly served with the Direct Request Proceeding documents on March 27, 2018.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?

Is the landlord entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

Is the landlord entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement between “Select Real Estate – Property Management Division”, landlord, which was signed by an unidentified person as “Property Manager/Landlord Acting on Behalf of the Owner” and the tenant on November 22, 2017, indicating a monthly rent of \$900.00, due on the first day of each month for a tenancy commencing on December 1, 2017;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated March 7, 2018 for \$975.00 in unpaid rent. The 10 Day Notice provides that the tenant had five days from the date of service to pay the rent in full or apply for Dispute Resolution or the tenancy would end on the stated effective vacancy date of March 18, 2018;
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was posted to the tenant’s front door at the unclear time of “10:00 AM/PM” on March 7, 2018;

- A Direct Request Worksheet showing the rent owing in the amount of \$900.00;

Analysis

In an *ex parte* Direct Request Proceeding, the onus is on the landlord to ensure that all submitted evidentiary material is in accordance with the prescribed criteria and that such evidentiary material does not lend itself to ambiguity or give rise to issues that may need further clarification beyond the purview of a Direct Request Proceeding. If the landlord cannot establish that all documents meet the standard necessary to proceed via the Direct Request Proceeding, the application may be found to have deficiencies that necessitate a participatory hearing, or, in the alternative, the application may be dismissed.

The Residential Tenancy Agreement states that the landlord is "Select Real Estate – Property Management Division". It is not clear that the person submitting the application has the authority to act on the landlord's behalf.

I further find that there is an unexplained discrepancy in the amount claimed by the landlord, being \$1,927.50 stated in the General Dispute Information, and \$975.00 claimed in the 10 Day Notice and Direct Request Worksheet. I find this discrepancy is not resolved in the landlord's evidence.

Based on the foregoing lack of clarity around the identification of the landlord and uncertainty about the amount claimed, I find that the application herein is dismissed with leave to the landlord to reapply.

Conclusion

The application herein is dismissed with leave to the landlord to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: March 29, 2018

Residential Tenancy Branch